

SCHEDULE 2

THE RIGHT TO BUY PROVISIONS AS THEY APPLY IN CASES WHERE THE RIGHT TO BUY IS PRESERVED RIGHT TO BUY RECOVERABILITY OF DISCOUNT

Recovery of discount on early re-sale

72.—(1) A qualifying person who has purchased a qualifying house in exercise of a right to purchase under section 61, or any of his successors in title, who sells or otherwise disposes of the qualifying house (except as provided for in section 73) before the expiry of 3 years from the date of service of a notice of acceptance by the qualifying person under section 66, shall on the request of the landlord be liable to repay to the landlord, in accordance with subsection (3), a proportion of the difference between the market value determined, in respect of the qualifying house, under section 62(2) and the price at which the qualifying house was so purchased.

(1A) Where a qualifying person has served on the landlord a notice under section 66A(1), the commencement of the period of 3 years referred to in subsection (1) shall be backdated by a period equal to the time (or, where section 66C(1) applies, the aggregate of the times) during which, by virtue of section 66A(2), any payment of rent falls to be taken into account.

(2) Subsection (1) applies to the disposal of part of a qualifying house except in a case where—

- (a) it is a disposal by one of the parties to the original sale to one of the other parties; or
- (b) the remainder of the qualifying house continues to be the only or principal home of the person disposing of the part.

(3) The proportion of the difference which shall be paid to the landlord shall be—

- (a) 100 per cent. where the disposal occurs within the first year after the date of service of notice,
- (b) 66 per cent. where it occurs in the second such year, and
- (c) 33 per cent. where it occurs in the third such year.

(4) Where as regards a qualifying house or part of a qualifying house there is, within the period mentioned in subsection (1), more than one disposal to which that subsection would (apart from the provisions of this subsection) apply, that subsection shall apply only in relation to the first such disposal of the qualifying house, or part of the qualifying house.

(5) Where a landlord secures the liability to make a repayment under subsection (1) the security shall, notwithstanding section 13 of the Conveyancing and Feudal Reform (Scotland) Act 1970(**(1)**), have priority immediately after—

- (a) any standard security granted in security of a loan either—
 - (i) for the purchase of the qualifying house, or
 - (ii) for the improvement of the qualifying house,

and any interest present or future due thereon (including any such interest which has accrued or may accrue) and any expenses or outlays (including interest thereon) which may be, or may have been, reasonably incurred in the exercise of any power conferred on the lender by the deed expressing the said standard security; and

- (b) if the landlord consents, a standard security over the qualifying house granted in security of any other loan, and in relation thereto any such interest, expenses or outlays as aforesaid.

(1) 1970 c. 35.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(6) For the avoidance of doubt, paragraph (a) of subsection (5) applies to a standard security granted in security both for the purpose mentioned in sub-paragraph (i) and for that mentioned in sub-paragraph (ii) as it applies to a standard security so granted for only one of those purposes.

(7) The liability to make a repayment under subsection (1) shall not be imposed as a real burden in a disposition of any interest in the qualifying house.